



FILLING A VACANCY

AN ANALYSIS OF THE TOP 25
LARGEST US CITIES

OVERVIEW

- **FOCUS:** What alternative methods are used by various US cities to determine how to fill a vacant office seat within their respective legislative bodies?
- **GOAL:** Analysis of data set compilations of the top 25 most populous US cities as well as Best Large Cities to Live Index. The latter compilation compared 62 cities in the U.S. with a population of more than 300,000 each across four key dimensions: 1) Livability, 2) Education, 3) Health, and 4) Local Economy & Taxes.
- **PERSPECTIVE:** Finding categorical similarities within each city's method for filling a vacancy; offering insight into 1) the top 25 most populous US cities; 2) national trends by region; 3) a comparison of codified placements in charters, city/state codes, and state constitutions; 4) a comparison of a Best Large Cities to Live Index ranking; and 5) conclusion

METHODOLOGY FOR FILLING A VACANCY

- Generally, there are three methods:
 1. An appointment process
 2. A special election
 3. A hybrid approach
 - a) Uses both methods, with either process being triggered by several contingencies:
 - the date of a vacancy in relation to a city's next regular municipal election;
 - by whether the vacant seat is categorized as a district/ward or at-large seat; or
 - by preference for one method being used prior to implementation of the other.

DEFINITIONS

- APPOINTMENT - “the designation by virtue of a vested power of a person to enjoy an estate.”
- VACANT- “of a job or position; not occupied by a person; available to be taken by someone”
- EXAMPLE:
 - Mr. Smith was appointed to the council seat vacated by Ms. Johnson’s resignation.

DEFINITIONS

- ELECTIONS
 - Under the Ohio Revised Code, there are several types of elections: General, Regular Municipal, Regular State, Primary, Presidential Primary, and a Special Election.
 - » “General Election” is held on the first Tuesday after the first Monday in November
 - » “Regular Municipal Election” is held on the first Tuesday after the first Monday in November in every odd-numbered year
 - » “Regular State Election” is held on the first Tuesday after the first Monday in November in every even numbered year.
 - » “Special Election” is “any election other than those elections defined in other divisions and may be held only on the first Tuesday after the first Monday in May, August, or November, or on the day authorized by a municipal or county charter for the holding of a primary election, except that in any year in which a presidential primary election is held, no special election shall be held in May, except as authorized by a municipal or county charter, but may be held on the first Tuesday after the first Monday in March.”

THE TOP 25 MOST POPULOUS CITIES

- Surveyed each of the top 25 most populous city's charter, city/state code, and/or state constitution.
- Ranked highest population to lowest:
 - 1.New York City
 - 2.Los Angeles
 - 3.Chicago
 - 4.Houston
 - 5.Philadelphia
 - 6.Phoenix
 - 7.San Antonio
 - 8.San Diego
 9. Dallas
 10. San Jose
 11. Austin
 12. Jacksonville
 - 13.San Francisco
 14. Indianapolis
 15. Columbus
 - 16.Fort Worth
 - 17.Charlotte
 - 18.Seattle
 - 19.Denver
 - 20.El Paso
 - 21.Detroit
 - 22.Washington DC
 - 23.Boston
 24. Memphis, and
 - 25.Nashville

TOP 25 CITIES: METHODOLOGY

- Under each city's legislative authority on filling a vacancy:
 - 8/25, or 32%, use an appointment process
 - 9/25, or 36%, use a special election
 - 8/25, or 32%, use a hybrid approach combining both an appointment and a special election process.

TOP 25 CITIES: METHODOLOGY

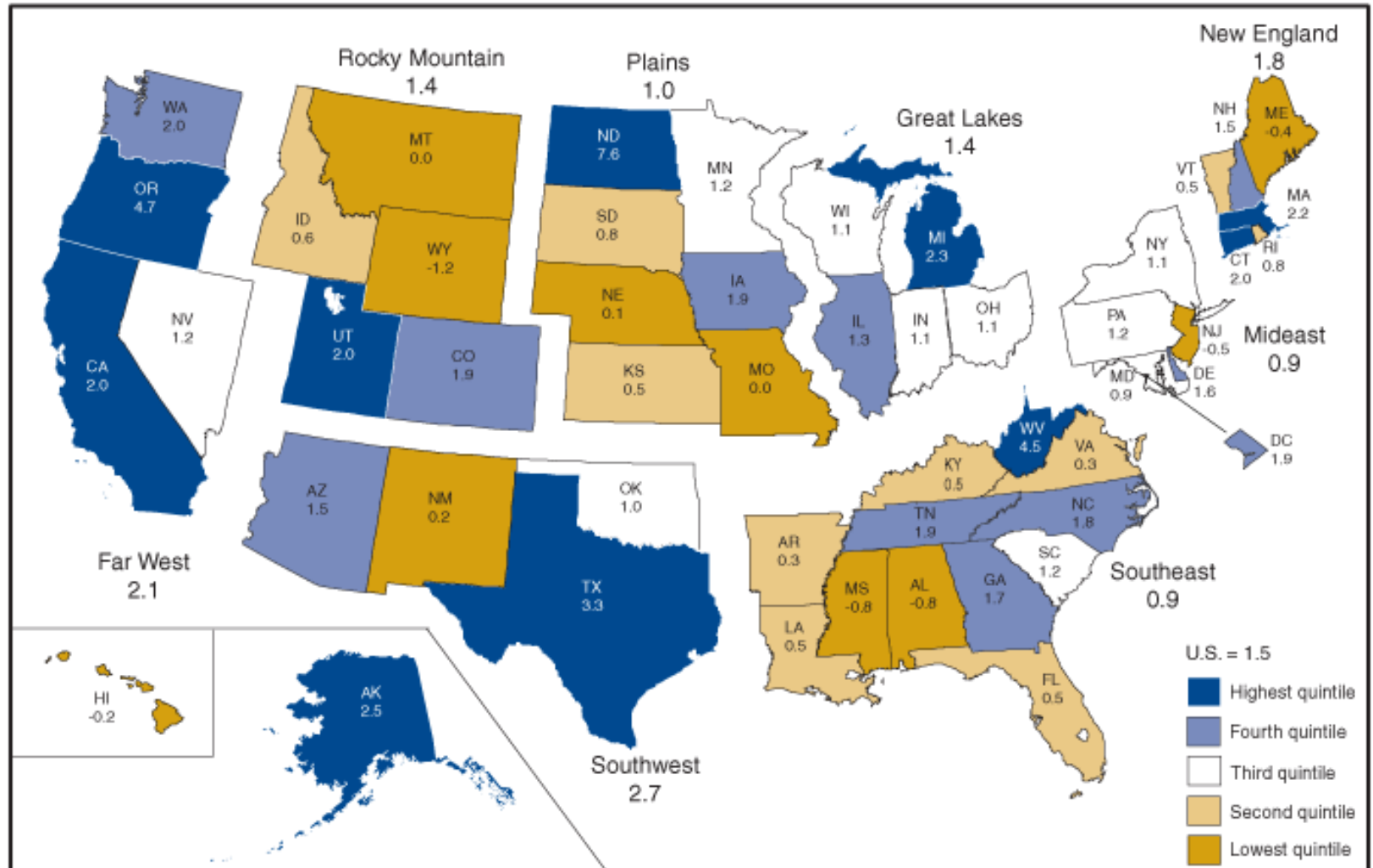
CITY	<u>METHODOLOGY</u>	CITY	<u>METHODOLOGY</u>
San Francisco	APPOINTMENT	Denver	SPECIAL ELECTION
Seattle	APPOINTMENT	Austin	SPECIAL ELECTION
Charlotte	APPOINTMENT	Nashville	SPECIAL ELECTION
Columbus	APPOINTMENT	Fort Worth	SPECIAL ELECTION
Chicago	APPOINTMENT	New York	SPECIAL ELECTION
Indianapolis	APPOINTMENT	Jacksonville	SPECIAL ELECTION
Memphis	APPOINTMENT	Dallas	SPECIAL ELECTION
Detroit	APPOINTMENT	El Paso	SPECIAL ELECTION
San Jose	HYBRID	Philadelphia	SPECIAL ELECTION
San Diego	HYBRID		
Washington	HYBRID		
Boston	HYBRID		
Houston	HYBRID		
Los Angeles	HYBRID		
Phoenix	HYBRID		
San Antonio	HYBRID		

NATIONAL REGIONS BREAKDOWN

- From a national regions perspective, particular methodologies are more preferable than their alternatives.
- The most dominate form of filling vacancies occurs in four Midwest cities, which favor the appointment process, and four Southwest cities, which favor a special election process.
- The most *hybrid* processes occur in three cities in the Southwest and three in the Far West.

NATIONAL REGIONS BREAKDOWN

Chart 1. Percent Change in Real GDP by State, 2011



NATIONAL REGIONS BREAKDOWN

CITY	<u>REGION</u>	<u>METHODOLOGY</u>	CITY	<u>REGION</u>	<u>METHODOLOGY</u>
San Francisco	FW	APPOINTMENT	Boston	NE	HYBRID
Seattle	FW	APPOINTMENT	Denver	RM	SPECIAL ELECTION
Los Angeles	FW	HYBRID	Charlotte	SE	APPOINTMENT
San Diego	FW	HYBRID	Memphis	SE	APPOINTMENT
San Jose	FW	HYBRID	Jacksonville	SE	SPECIAL ELECTION
Washington	ME	HYBRID	Nashville	SE	SPECIAL ELECTION
New York	ME	SPECIAL ELECTION	Houston	SW	HYBRID
Philadelphia	ME	SPECIAL ELECTION	Phoenix	SW	HYBRID
Chicago	MW	APPOINTMENT	San Antonio	SW	HYBRID
Columbus	MW	APPOINTMENT	Austin	SW	SPECIAL ELECTION
Detroit	MW	APPOINTMENT	Dallas	SW	SPECIAL ELECTION
Indianapolis	MW	APPOINTMENT	El Paso	SW	SPECIAL ELECTION
			Fort Worth	SW	SPECIAL ELECTION

NATIONAL REGIONS BREAKDOWN

- The most populous cities in the Midwest have a dominate preference for appointments and do not utilize special elections or hybrid processes at all.
- The entire Southeast does not prefer a hybrid process as it has an equal number of special elections and appointment processes.
- Several regions show close preferences between special elections/appointments and hybrid processes. For instance, when comparing special elections to hybrid preferences, the Southwest has 4-3 and the Mideast has 2-1. On the other hand, the Far West prefers the hybrid approach to the appointment process 3-2.

CODIFICATION OF LAW:

CHARTER, CODE, OR CONSTITUTION

- A municipality has several options relating to which legislative authority shall encompass its vacancy filling process.
- A city may codify its law in:
 - a municipal charter
 - A municipal or state code, or
 - a state constitution.
- In deciding where to codify, a city has to weigh the advantages and disadvantages of each source.

CODIFICATION OF LAW: CHARTER, CODE, OR CONSTITUTION

- A city council can pass an ordinance and such law is codified within a city code.
 - Citizens do not get to vote on the law.
 - The legislative process to replace or repeal the law with another ordinance can be fairly easy.
- Codifying a law in a city charter is much more difficult as it goes before voters on a ballot.
 - Any amendment or repeal would require a majority vote of the electorate. It is the city's equivalent to a state's constitution.
- Lastly, if a city charter or city code is silent on the issue, state law or a state constitution shall control.

CODIFICATION OF LAW: CHARTER, CODE, OR CONSTITUTION

- Regardless of region or methodology, the preferred source for The Top 25 most populous city's vacancy filling process is in a **charter**.
- Only 4/25, or 16%, of all remaining cities incorporate the law in a different source.

CODIFICATION OF LAW: CHARTER, CODE, OR CONSTITUTION

- All Far West, North East, and Rocky Mountain cities and nearly all of South West, South East, Midwest, and Mid East cities place the vacancy processes in a charter.
- The remaining cities use city codes, state constitution, or a hybrid of all three to govern their processes.

CODIFICATION OF LAW: CHARTER, CODE, OR CONSTITUTION

CITY	<u>REGIO N</u>	<u>LEGISLATIVE AUTHORITY</u>	CITY	<u>REGION</u>	<u>LEGISLATIVE AUTHORITY</u>
Los Angeles	FW	CHARTER	Washington	ME	CITY CODE
San Diego	FW	CHARTER	Indianapolis	MW	CITY CODE
San Francisco	FW	CHARTER	Charlotte	SE	STATE CODE
San Jose	FW	CHARTER	El Paso	SW	STATE CONSTITUTION
Seattle	FW	CHARTER	Chicago	MW	CHARTER, CITY CODE, ST. CONSTITUTION
New York	ME	CHARTER			
Philadelphia	ME	CHARTER			
Columbus	MW	CHARTER			
Detroit	MW	CHARTER			
Boston	NE	CHARTER			
Denver	RM	CHARTER			
Jacksonville	SE	CHARTER			
Memphis	SE	CHARTER			
Nashville	SE	CHARTER			
Austin	SW	CHARTER			
Dallas	SW	CHARTER			
Fort Worth	SW	CHARTER			
Houston	SW	CHARTER			
Phoenix	SW	CHARTER			
San Antonio	SW	CHARTER			

BEST CITIES INDEX

- The Best Large Cities to Live data set compared the attractiveness of the 62 largest U.S. cities in terms 31 relevant metrics, including:
 - measures of livability,
 - health- and education-system quality
 - economic growth, and
 - tax burden

BEST CITIES INDEX

- Comparing the top ten Best Large Cities to Live to The Top 25 most populous cities, seven of the largest cities are among the top ten best cities to live in.
- Four of the top ten Best Large Cities are located in the Far West: San Francisco (1), Seattle (2), San Jose (6), and San Diego (8). Denver (5), Austin (7), and Washington DC (10) complete the remaining top ten Best Large Cities.
- The first Midwest city to make an appearance on the Best Large Cities Index is Columbus, ranked 30th.

BEST CITIES INDEX

CITY	<u>BEST CITIES INDEX</u>	CITY	<u>BEST CITIES INDEX</u>
San Francisco	1	Fort Worth	39
Seattle	2	Phoenix	41
Denver	5	New York	42
San Jose	6	Jacksonville	43
Austin	7	Dallas	48
San Diego	8	San Antonio	49
Washington	10	El Paso	52
Charlotte	18	Chicago	53
Boston	19	Indianapolis	56
Nashville	27	Philadelphia	58
Columbus	30	Memphis	61
Houston	36	Detroit	62
Los Angeles	38		

CONCLUDING RECOMMENDATIONS

- If Columbus desired to emulate the most common legislative practices for filling a vacancy as compared to the most populous US cities and Best Large Cities to Live, then Columbus should not make any changes to the method of how it fills a vacancy and where such law is codified.
- Columbus and the surrounding Midwest region predominantly utilize an appointment process and place such law in a city charter.

CONCLUDING RECOMMENDATIONS

- As ranked, the Best Large Cities to Live are not the most populous cities in the US.
- Six of the top places to live are among the 10th-22nd largest cities.
 - These six cities, predominately in the Far West, utilize a charter to encapsulate their vacancy filling process.
- However, there is not a consensus in this data set for preference on how to fill a vacancy. All three methods - appointment, special election, and hybrid - are represented in this data set near evenly.

CONCLUDING RECOMMENDATIONS

- Columbus, although 30th in Best Cities to Live, is the 15th largest in the country, and thereby can compare itself to the ranked cities near its population and the cities near its Best Cities Index ranking.
 - Indianapolis is 14th largest, but #56 on the Best Cities index and uses an appointment process codified in city code.
 - Fort Worth is 16th largest, but #39 on the Best Cities Index and uses a special election process in a city charter.
- Combining national and regional trends with patterns in the areas of methodology and legislative sources reveal that Columbus is currently situated appropriately.